

**East Hampton Planning and Zoning Commission
Regular Meeting
September 7, 2011
Town Hall Meeting Room**

Unapproved Minutes

1. **Call to Order and Seating of Alternates:** Chairman Zatorski called the meeting to order at 7:01 p.m.

Present: Chairman Ray Zatorski, Vice-Chairman Mark Philhower, Members Peter Aarrestad, Roy Gauthier, Richard Gosselin, Rowland Rux, James Sennett, Alternate Members Darin Hurne, Kevin Kuhr, Meg Wright, and Planning, Zoning & Building Administrator James Carey were present.

Absent: No members were absent.

No Alternate Members were seated at this time.

2. **Approval of Minutes:**

A. August 3, 2011 Regular Meeting:

Mr. Aarrestad moved, and Mr. Philhower seconded, to approve the Minutes of the August 3, 2011 meeting as amended. The motion carried (5-0-2). (Yes Votes: Aarrestad, Gosselin, Philhower, Sennett, Zatorski. No Votes: None. Abstentions: Gauthier and Rux.)

3. **Communications, Liaison Reports, and Public Comments:**

Communications:

Mr. Carey reported that the Connecticut Federation of Planning & Zoning Agencies Quarterly Newsletter was distributed to the Members by email earlier today.

He reported that he is in receipt of the 2011 – 2040 Regional Transportation plan. This plan is available to anyone who would like to review it.

Finally, Mr. Carey reported that the Connecticut State Legislature has passed Public Act 11-79 regarding bonding of public improvements on site plans, subdivision, etc. He will be conducting a full analysis and will discuss his findings with the Commission in relation to our Regulations. Public Act 11-79 is also available for review.

Liaison Reports:

Mr. Zatorski reported that the IWWA has approved the work to be performed on North Main Street to install drainage improvements. The minutes for this special meeting will be available for viewing online and in the Town Clerk's Office.

Mr. Philhower reported that Midstate Regional Planning Agency (MRPA) met the night before to review three TIP amendments, No. 42 is a bridge replacement for East Haddam; No. 43 is an LED re-lamping state-wide project; and No. 44 a bridge replacement in Middletown. They also received the 2012 – 2015 TIP Program for review. They reviewed a zoning referral for Salem which was for a 6-month moratorium specifically to address concerns regarding

PA 11-79. The moratorium will cover all site plans and zoning referrals. Finally, they prioritized pavement preservation projects. This raised some concerns regarding East Hampton. It appeared that East Hampton's estimates may have been dramatically less than the State's estimates causing the Planning Agency to be concerned about East Hampton's eligibility for the funds. Mr. Carey will look into this discrepancy and get back to MRPA in time for the vote that has been rescheduled for next month.

Mr. Gauthier reported that EDC did not meet last month.

Mr. Sennett reported that the ZBA did not meet last month and they will not be meeting this month.

Mr. Kuhr reported that he attended the Conservation-Lake Commission meeting last month. They are expecting educational pamphlets to be available shortly. The watershed signage plan is pending the Police Chief's approval. A lake watershed topographical model has been purchased for \$4200 to be displayed in public areas. They will be scheduling training with Ken Wagner for water quality sampling. They are reviewing the new wetlands maps on the Town's GIS. They are researching potential grants for water quality improvement and conservation purposes. The Commission believes that the quality of the lake water has improved and plans to sample water quality weekly. The DEEP will be providing a training session for invasive weeds. An educational awareness sign is being considered for the Sears Park boat launch and Friends of the Lake is considering purchasing the sign. Finally, they discussed curbing and catch basins on Old Marlborough Road and the need for more frequent cleaning of the catch basins.

Mr. Rux reported that the Water Development Task Force did not meet last month.

Public Comments: The Chairman opened the meeting to the public for comments regarding any item that would not be covered under the Public Hearing portion of the meeting. There were none.

4. Set Public Hearing(s) for October 5, 2011:

Application of Hubert E. Butler Construction Company, LLC, 9 Young Street, for a Special Permit Renewal of Excavation Plan - Map 12/Block 33/Lot 7A:

Mr. Philhower moved to schedule the public hearing for the Application of Hubert E. Butler Construction Company, LLC, 9 Young Street, for a Special Permit Renewal of Excavation Plan, Map 12/Block 33/Lot 7A, for the next regularly scheduled meeting to be held on October 5, 2011. Mr. Aarrestad seconded the motion. The motion carried unanimously.

5. Read Legal Notice: None.

6. Public Hearing for September 7, 2011:

A. Application of LCS Properties, LLC, for an Amendment to Zoning Regulations Section 7.11, Continued from July 6, 2011:

Mr. Gauthier recused himself at this time. The Chairman seated Ms. Wright.

Mr. Carey explained that the applicant submitted revisions to the Commission, which Mr. Carey has reviewed. The applicant will present the revisions to the Commission.

Harry Heller, Attorney, 736 Route 32, Uncasville, Connecticut, was present to represent the applicant. He explained that this is an application for a text amendment that the applicant and his team have been working on for a couple of years. This amendment will accommodate a future project for the applicant. It will also be available to other developers for similar projects. This application is requesting the Commission to adopt the legislative structure that will allow a master plan to be developed and brought to the Commission for consideration. The floating zone regulation requires the adoption of a master plan that presents a conceptual development plan with the supporting information necessary to evaluate whether a project is appropriate for the proposed area. This overlay zone is the closing thing to contract zoning available to a zoning commission in Connecticut. The Commission has the opportunity to view the plan and locality, evaluate access to the project, availability of utilities, impacts on resources, and determine whether it fits within the neighborhood. When the master plan is approved the next step is for the applicant to come before the Commission with an actual, engineered site development plan. This plan is considered in an administrative capacity. The applicant must show compliance with the requirements of the regulations and the master plan, as well as appropriate engineering for the requirements of the site and uses. The applicant has incorporated the comments heard during the public hearing into the draft before the Commission this evening.

Mr. Heller highlighted the changes. They included the ownership of parcels considered within the master plan, decreases and increases in the ratios between types of use, deletion of the opportunity for the Commission to initiate a zone change for a Mixed Use Development District (MUDD), limitation of the eligible zones for landing a MUDD to the Commercial and Design Development zones, clarification of the uses allowed by right and special permit, removal of gasoline sales, 60 acres of contiguous acreage required, elimination of redundancies, Commission granted full legislative discretion per Connecticut Law, requirement for findings stated in the case of an approval, phase sustainability, fee-in-lieu eliminated, and a ratio of 10,000 sq. ft. of commercial or recreational floor area for every 70 bedrooms of residential development.

The Commission discussed with the applicant the 52' height requirement. Mr. Heller explained the intent is to provide space for a first floor commercial use with second and third floor residential use, a design in keeping with a New England village setting.

Kent Schwendy, Designer with Fuss & O'Neil, explained that the 52' allows for a gable roof on a three story building. The Fire Marshal has reviewed this to ensure that the fire department may access the gable. The intention was not for a half story above three. It was to provide access to the roof.

Mr. Carey discussed his interest in this type of a regulation to further protect the Route 66 corridor against strip mall development. The Commission has, in the past, expressed concern about this type of development. However, the regulations in place support precisely that type of development. The proposed MUDD regulation will encourage mixed use development off the Route 66 corridor in a manner that will promote the much needed commercial development, other than strip malls, and also draw the necessary residential development to support it.

Mr. Heller explained that the need to apply the Subdivision Regulations will depend on the type of development being proposed in the master plan. If the parcel will be subdivided

into lots for individual sale the Subdivision Regulations would need to be considered by both the applicant and the Commission. Recreational uses are required in both this proposed regulation and the established Subdivision Regulation. These issues are considered in the master plan stage of proposed projects.

Mr. Heller discussed the Commission's discretion during the review of the master plan. He pointed out that it is the Commission's responsibility to evaluate proposed master plans for the location of uses in the site layout to avoid a scenario where the developer front loads the commercial uses on the Route 66 corridor and fills the residential use in the village setting in the back. If the Commission is concerned with the location of uses in the site layout, the master plan would not be approved.

The Commission discussed the potential for a metric formula to aid their review of master plans. The flexibility built into the proposed regulation precludes the use of guidelines, which will require the Commission to have insight into the needs and requirements of the community at large.

Mr. Sennett submitted handouts related to the Mashpee Commons in Massachusetts and questioned whether their regulation was similar to the regulation being considered here.

Mr. Heller responded that the regulations are completely different and the similarity is only that they are both lifestyle communities where there is a mix of recreational, commercial, and residential uses.

Mr. Schwendy explained that Mashpee Commons is still under construction and most of the residential phases have not been built.

Mr. Heller explained that it is the same type of community only in the sense that it involves the same mix of uses. The scope of Mashpee Commons is something that would probably be unaccepted for an East Hampton community. The scope of any given project is precisely what would be vetted during the master plan review.

Mr. Carey provided a summary of the current draft regulation to the Commission. He explained that the proposal is an alternative to conventional zoning. It does provide the opportunity for the Commission to avoid some of the development problems to come with traditional zoning. The problems addressed with this proposal include vast parking lots, extensive drainage designs, little pedestrian and bicycle access, and most importantly a thematic consistency. He also believes that the market has really changed. People are looking for an alternative to the expansive houses and yards that had become the norm. This regulation provides an opportunity for the Commission to provide an alternative if the demand is present. The regulation also provides for the project to close if the demand slackens without concern for ongoing viability of the existing development. Mr. Carey recommends that the Commission look at the proposal from a positive perspective and eventually adopt it making conditions as the Commission deems appropriate. This proposal allows this Commission more discretion than any regulation has in the past. It does simultaneously require a lot more vision of the Commission. The bulk of the Commission's regulatory philosophy is going to remain conventional R-1, -2, -3, and -4 zoning. As the market improves the subdivision applications will return but with an added pressure to amend those regulations as well.

The Chairman discussed the floating zone nature of this concept. It is not a use by right. The Commission has total discretion.

The Chairman opened the public hearing at this time.

John Perra, 8 South Hollow, spoke in support of the project and knows firsthand as a resident of Laurel Ridge the success of this developer's projects. He also believes that Laurel Ridge and the medical office building fit right in with the type of project being proposed.

The Chairman clarified that this project before the Commission tonight is not an application for a particular parcel of land. It is an application for a regulation amendment and must be considered as an application for the Commercial and Design Development Zones in Town.

Mary Ann Dostler, 56 William Drive, appreciates the Chairman's comments that the application is for a regulation change and is not specific to any one application.

The Chairman clarified that this application is a floating zone that will apply only to certain areas and certain places in Town.

Ms. Dostler explained that she has read the minutes from both the July and August meetings because she did not attend those meetings. She understands that it does apply only to the overlay zones to which can be applied. Ms. Dostler believes it is a very complex application and noted the many changes that have been made to the application since the public hearing was first opened including at this meeting. She suggested that the Commission request an extension of time from the applicant to close the public hearing at a later date so that the final application that is to be considered may have input gathered from the EDC and the Redevelopment Agencies. An application of this magnitude, in terms of the impact to the community, the Plan of Conservation and Development, economic development, and the work of the Redevelopment Agency, would benefit from the insight those two boards can provide.

The Chairman explained that the applicant has already granted an extension to the public hearing time requirements and the Commission is basically out of time. The Commission explained that it has held three, appropriately noticed, public hearings to date.

Mr. Philhower moved, and Mr. Gosselin seconded, to close the public hearing for the application of LCS Properties, LLC, for an amendment to Zoning Regulations Section 7.11, continued from July 6, 2011. The motion carried unanimously.

Mr. Philhower moved, and Mr. Rux seconded, to continue the Application of LCS Properties, LLC, for an Amendment to Zoning Regulations Section 7.11, to the next regularly scheduled meeting on October 5, 2011. The motion carried unanimously.

The Chairman recessed the meeting at this time.

The meeting reconvened at 8:55 p.m.

The Chairman unseated Ms. Wright and reseated Mr. Gauthier.

B. Application of Hope Church, 0000 East High Street, Special Permit and Site Plan Review of Proposed Church and Community Center – Map 32/Block 86/Lot 18:

Mr. Rux recused himself from this application because he has not been able to thoroughly review the application.

The Chairman seated Mr. Kuhr.

Mr. Carey reported that all the outstanding items needed to satisfy the concerns of the Town's engineer have been satisfied and the Town is in receipt of a letter from Thomas Cummings confirming. Mr. Carey has no further concerns and believes this application does conform to all the Town's regulations for site plan standards.

Ben Wheeler, Registered Architect with Design Professionals, explained that their were three elements outstanding at the end of last month's meeting. The first being the list of outstanding issues from the Town's engineer. Those items have all been fully addressed and the Town's engineer is satisfied. The second issue was the plan for overhead electric service, which is not allowed in the DD Zone. The plan has been revised to provide underground electric service from the same pole on Route 66, around the wetlands, and connect into the building. The third issue was the project phasing, which has been provided tonight.

Mr. Wheeler explained that Phase 1 of construction will include the building and parking and traffic circulation immediately around the building. All of the storm drainage will be installed in Phase 1, as will landscaping around the perimeter of the building. The only bituminous areas in the parking area will be the apron on to Route 66 and the handicap accessible parking spaces. The only site lighting to be installed in Phase 1 will be one pole near the entrance for safety during ingress and egress. There will be lights on the building to meet the requirements of the Building Code. Phase 2 will install bituminous pavement in the gravel parking area installed in Phase 1, expand the parking lot to the east to include that parking area which will be permanently gravel, and install the remainder of the site lighting. Phase 3 is a future plan for the church. The intent of Phase 3 is long-term, as it becomes necessary for the church. It includes a building addition on the south side of the building and a small storage building at the east end of the parking lot. Phase 3 may never be finalized.

Gerard Chicarello, Building Committee Chair, indicated that the exterior building enhancements are also included in Phase 2.

Mr. Wheeler referred to the Landscape Plan and indicated that there will be three ornamental trees and corner trees at the peak of the parking lot and around the building. There will be a nicely manicured lawn for the time being until the congregation can enhance the landscaping as is common for churches.

Attorney Scott Jezek, East Haddam, was present to request that the matter be approved if possible this evening. He also requested that the issue of entryway landscaping be addressed in the form of a condition at the time of approval to allow the project to proceed. As each month passes the purchase price increases. Landscaping could certainly be handled by the Town Staff and the applicant after the approval.

The Chairman opened the public hearing at this time. There were no comments made by the public.

Mr. Philhower moved, and Mr. Aarrestad seconded, to close the public hearing for the application of Hope Church, 0000 East High Street, Special Permit and Site Plan Review of Proposed Church and Community Center, Map 32/Block 86/Lot 18. The motion carried unanimously.

Mr. Philhower moved, and Mr. Sennett seconded, to approve the application of Hope Church, 0000 East High Street, for Special Permit and Site Plan Review of Proposed Church and Community Center, Map 32/Block 86/Lot 18, with the following conditions:

- *Receipt of a landscape plan satisfactory to Town Staff prior to commencement of construction; and*
- *Town Staff be notified prior to construction.*

The Commission approves this application because it is an appropriate project for the Town of East Hampton and meets the requirements of the Regulations. The motion carried unanimously.

7. **New Business:** None.

8. **Old Business:** None.

9. **Adjournment:** *Mr. Gauthier moved to adjourn the meeting. Mr. Aarrestad seconded the motion. The motion carried unanimously.*

The meeting adjourned at 9:15 p.m.

Respectfully submitted,

Daphne C. Schaub
Recording Secretary